

STATEMENT OF DETERMINATIONS AND BUSINESS IMPACT

Section 116375(c) of the Health and Safety Code (H&S Code) requires the Department to adopt regulations relating to the design, operation, and maintenance of public water systems to assure that these systems can obtain and distribute a reliable and adequate supply of pure and potable drinking water. The current waterworks standards were adopted in the 1970's and are reflected in sections 64551 through 64644 (Title 22, division 4, chapter 16) of the California Code of Regulations (CCR).

Since the original waterworks standards were adopted, the Administrative Procedures Act was amended to include statutory requirements for regulations to conform to certain criteria for necessity, clarity, and authority. The existing waterworks standards do not meet the required criteria. Further, many of the standards are obsolete or contain outdated references and do not address all of the current health issues relating to public water systems. However, perhaps the most significant problem is that the standards contain numerous ambiguous phrases that not only do not meet the requirements for clarity, but make the standards extremely confusing to public water systems. This confusion and lack of clarity has also made enforcement of the current standards difficult.

To resolve these problems, the Department is proposing to repeal the current waterworks standards in their entirety. Some existing sections would be repealed because they are no longer necessary. Others have been rewritten for clarity and proposed as new sections, and some new requirements are being proposed to assure protection of public health and compliance with the statutes. The Department believes that these proposed changes would benefit the water industry by eliminating unnecessary requirements and improving clarity. The revisions also would improve the level of public health protection and increase the assurance that public water systems would be able to reliably provide an adequate supply of healthful drinking water at all times as required by law.

Summary

In summary, the proposed regulation package would:

- For ease in revision, repeal the existing Waterworks Standards as contained in sections 64417, and 64555 through 64644 of Title 22;
- To update and clarify the regulatory requirements related to the distribution system, adopt new Waterworks Standards as detailed in proposed sections 64551 through 64604;
- For purposes of integrating related requirements, move the amended sections 64700 (Direct Additives) renumbered 64590, and 64710 (Exception) renumbered 64593 and re-titled "Use of Uncertified Chemicals, Materials or Products" from Chapter 18 to the Waterworks Standards in Chapter 15;
- For the purpose of ensuring sufficient supply to meet demand, adopt a requirement for a source capacity planning study for any anticipated water system expansion; and
- To address the potential for inadvertent contamination of drinking water, adopt a

new section 64591 (Indirect Additives).

The Department has determined that the proposed regulations would not have a significant adverse impact on businesses, including the ability of California businesses to compete with businesses in other states. The fiscal impact of this regulation for individual systems is insignificant as noted in the fiscal impact analysis. Note that there is a potential cost savings to noncommunity systems since this regulation would exempt them from several of the existing waterworks standards.

The Department has determined that the regulations will not significantly affect the following:

1. The creation or elimination of jobs within the State of California. The requirements summarized above should not have any affect in this area in that there would not be any change in water system or regulatory personnel needed for compliance with the proposed requirements.
2. The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the water industry is such that the proposed standards will not result in the creation or elimination of water systems. The impact of these regulations will be insignificant.
3. The expansion of businesses currently doing business within the State of California. Since water system size is basically a function of the number of service connections (consumers) served, the new regulations should not have any affect on expansion.

ALTERNATIVES CONSIDERED

The Department has determined that no alternative considered by the Department would be more effective in carrying out the purpose for which the amendments to the regulations have been adopted or would be as effective and less burdensome to affected private persons than the amendments.

LOCAL MANDATE DETERMINATION

The Department has determined that the proposed regulation would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code. Local agencies should not incur costs as a result of this regulation. However, if they were to incur costs, those costs would be of the following nature:

First, some local agencies would incur costs in their operation of public water systems. These costs would not be the result of a “new program or higher level of service” within the meaning of Article XIII B, Section 6 of the California Constitution because they apply generally to all individuals and entities that operate public water systems in California and do not impose unique requirements on local governments. Therefore, no state reimbursement of these costs would be required.

Second, some local agencies could incur additional costs in discharging their responsibility to enforce the new regulations for the small public water systems (under 200 service connections) that they regulate. However, the Department has determined that any increase in the local agency costs resulting from enforcing this regulation would be insignificant. Furthermore, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small public water systems. (Health and Safety Code Section 101325) Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required. (Government Code Section 17556(d)).